

Exhibit 4



Merchant Agreement

BY CHOOSING "I ACCEPT" OR SIMILAR LANGUAGE ON THE BROADJAM DOWNLOADS STORE SIGNUP FORM, YOU CONFIRM THAT YOU WILL BECOME A PARTY TO THIS AGREEMENT, AND YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, ALL REFERENCED POLICIES AND ALL OTHER AGREEMENTS THAT ARE INCORPORATED HEREIN. WE MAY MODIFY THIS AGREEMENT FROM TIME TO TIME AS FURTHER DESCRIBED IN ARTICLE II BELOW. IF YOU DO NOT AGREE TO THESE TERMS OR ANY SUBSEQUENT MODIFICATION, CLICK THE "I DO NOT ACCEPT" BUTTON OR OTHERWISE DO NOT REGISTER FOR OR USE THE BROADJAM DOWNLOADS STORE. THE "EFFECTIVE DATE" OF THIS AGREEMENT IS THE DATE ON WHICH YOU CLICK THE "I ACCEPT" BUTTON. BROADJAM RESERVES THE RIGHT TO REJECT YOUR OFFER TO REGISTER FOR OR USE THE BROADJAM DOWNLOADS STORE IN ITS SOLE DISCRETION.

Last updated: Sept 1, 2016

Table Of Contents:

» [Article 1 GENERAL](#)

» [1.01](#)

» [1.02](#)

» [1.03](#)

» [Article 2 SCOPE OF SERVICE](#)

» [2.01](#)

» [2.02](#)

» [2.03](#)

» [Article 3 GRANT OF LICENSES; REPRESENTATIONS AND WARRANTIES](#)

» [3.01](#)

» [3.02](#)

» [3.03](#)

» [3.04](#)

» [3.05](#)

» [3.06](#)

» [3.07](#)

[?](#) **Help**

» 3.08

» 3.09

» Article 4 TERMS AND CONDITIONS

» 4.01

» 4.02

» 4.03

» 4.04

» 4.05

» Article 5 FEES; TECHNICAL REQUIREMENTS

» 5.01

» 5.02

» 5.03

» 5.04

» Article 6 PAYMENTS

» 6.01

» 6.02

» 6.03

» 6.04

» 6.05

» 6.06

» 6.07

» Article 7 MISCELLANEOUS

» 7.01

» 7.02

» 7.03

» 7.04

» 7.05

» 7.06

» 7.07

» 7.08

» 7.09

» 7.10

Contents:

» GENERAL

» 1.01

This is an agreement between Broadjam, Inc. ("we", "us" or "Broadjam") and you and any band, group, association or entity for whom you are acting as an agent ("you" or "Merchant").

[back to top](#)

» 1.02

This Agreement specifies the terms and conditions that govern your use of the Broadjam Downloads Store (the "BDS"). When we refer to "use" of the BDS in this Agreement, we mean any actual or attempted access or use of the BDS, including, without limitation, any transmission, exchange of information or communication associated with the BDS.

[back to top](#)

» 1.03

This Agreement incorporates by reference the Broadjam User & Subscription Agreement (hereinafter the "USA," found at www.broadjam.com) and you agree to its terms. This Agreement is intended to be read with the USA and not to limit it. Any conflicts or inconsistencies between this Agreement and the USA shall be resolved on a case-by-case basis.

[back to top](#)

» SCOPE OF SERVICE

» 2.01

The BDS permits individuals or entities who maintain a Broadjam membership account ("Buyers") to purchase songs or download songs free of charge ("Free Songs") that other Broadjam members ("Merchants") have chosen to make available for sale or for free download in the BDS. Broadjam

may distribute these songs via permanent digital download, streams or burns, as individual tracks or as whole albums.

[back to top](#)

» 2.02

To enroll as a Merchant, you must first complete the Broadjam subscription process located on our web site at <http://www.broadjam.com> (the "Site") or such other registration process as we may require.

[back to top](#)

» 2.03

We have sole discretion as to the operation, availability and scope of the BDS. We reserve the right to modify, expand, update, discontinue or otherwise change the BDS (or component thereof) and the terms of this Agreement. We will notify you of any material changes to this Agreement by posting the revised terms to the Site. YOU SHOULD REFER TO THE SITE FREQUENTLY TO ENSURE THAT YOU HAVE REVIEWED AND ARE FAMILIAR WITH THE MOST RECENT VERSION. Unless we state otherwise, the change, addition or deletion will apply to your future use of the BDS. You are deemed to accept all changes, additions or deletions if you use the BDS after they have been posted. If you do not agree to any such change, your sole remedy is to terminate this Agreement pursuant to Article IV.

[back to top](#)

» GRANT OF LICENSES; REPRESENTATIONS AND WARRANTIES

» 3.01

By accepting this Agreement and/or by the act of uploading Material (as that term is defined in the USA) to the BDS (hereinafter your "BDS Material"), you hereby grant Broadjam the nonexclusive right, for the Term and throughout the Territory, to promote, sell, distribute, electronically fulfill and deliver

your BDS Material via permanent digital download, streams or burns, as individual tracks or as whole albums, pursuant to the terms of this Agreement. To effectuate this intent you hereby grant Broadjam a nonexclusive, royalty-free license to:

(a) reproduce, convert, publicly display, transmit, stream, and electronically distribute your BDS Material;

(b) use any trademarks, service marks or trade names as well as any trademarks, service marks or trade names appearing in your BDS Material, for purposes of promoting and advertising Broadjam products and services; and

(c) use your name and likeness as well as the names and likenesses of any individuals depicted in or having ownership interests in your BDS Material, for purposes of promoting and advertising Broadjam products and services.

[back to top](#)

» 3.02

For purposes of clarification, and without limitation, the term "BDS Material" includes, but is not limited to, both the musical composition and the sound recording in which any musical composition is embodied; along with associated metadata, artwork, photographs, text and lyrics.

[back to top](#)

» 3.03

All licenses you grant to Broadjam under this Agreement are in addition to those you have granted to Broadjam pursuant to the USA (the "USA Licenses"), and nothing herein is intended to limit the USA Licenses.

[back to top](#)

» 3.04

If we make an error in good faith, and consequently exceed our license rights, your sole and exclusive remedy will be for us to take all reasonable steps to promptly correct the error as soon as you notify us of the error.

[back to top](#)

✦ 3.05

Nothing herein shall obligate Broadjam to exercise any rights granted to us under this Agreement or the USA.

[back to top](#)

✦ 3.06

By accepting this Agreement and/or submitting your BDS Material to Broadjam, you expressly warrant and represent the following to Broadjam and acknowledge that Broadjam is relying upon such warranties and representations:

(a) That you have reached the age of majority and are otherwise competent to enter into contracts in your jurisdiction; and that in any event you are at least 18 years of age.

(b) That you have obtained and hold all rights, approvals, consents, licenses and/or permissions, in proper legal form, necessary to submit your BDS Material on the terms provided herein and to grant Broadjam the licenses set forth herein.

(c) That no other rights, approvals, consents, licenses and/or permissions are required from any other person or entity to submit your BDS Material on the terms provided herein or to grant Broadjam the licenses set forth herein.

(d) That your BDS Material is original; that your BDS Material was either created solely by you or, by written assignment, you have acquired all worldwide intellectual property rights in and to your BDS Material or that, if your BDS Material contains any "samples" or other copyrightable work the rights

to which are owned in whole or in part by any person or entity other than you, that you have obtained and hold all rights, approvals, consents, licenses and/or permissions, in proper legal form, necessary to use and include such work in your BDS Material; and that your BDS Material does not otherwise infringe on the intellectual property rights of any person or entity.

(e) That your BDS Material does not violate any common law or statutory patent, copyright, privacy, publicity, trademark or trade secret rights of any person or entity and is not libelous, defamatory, obscene or otherwise actionable at law or equity.

(f) That your BDS Material does not contain and will not produce any viruses or other harmful code or other information that could damage or otherwise interfere with our computer systems or data and/or that of our customers.

(g) That all factual assertions you have made and will make to us are true and complete.

[back to top](#)

» 3.07

You agree to sign and deliver to Broadjam any additional documents that Broadjam may request to confirm Broadjam's rights and your warranties and representations under this Agreement.

[back to top](#)

» 3.08

You acknowledge that Broadjam is relying upon the representations, warranties and covenants you have made herein. You agree to and hereby do indemnify Broadjam, its licensees, assigns and customers against, and hold them harmless from, any loss, expense (including reasonable attorney fees and expenses), or damage occasioned by any claim, demand, suit, recovery, or settlement arising out of any breach or alleged breach of any of the representations, warranties or covenants made herein or arising out of any failure by you to fulfill any of the representations, warranties, or covenants you have made herein.

[back to top](#)

✎ 3.09

This Article III shall survive termination of this Agreement.

[back to top](#)

✎ TERMS AND CONDITIONS

✎ 4.01

The following terms shall have the following meanings for purposes of this Agreement:

(a) "Term" means the period beginning on the Effective Date of this Agreement and extending coterminously with your uninterrupted status as a Broadjam Subscriber, regardless of whether your subscription is paid or complimentary. If your Broadjam subscription terminates for any reason and you later re-subscribe, this Agreement will not automatically revive.

(b) "Territory" means the Universe.

[back to top](#)

✎ 4.02

You may terminate this Agreement at any time by providing Broadjam with thirty (30) days' written notice of your intention to terminate. Broadjam may terminate this Agreement at any time, without notice and in its sole discretion.

[back to top](#)

✎ 4.03

You retain full ownership of any and all BDS Material you submit to Broadjam, at all times, subject

only to the rights and licenses you grant to us pursuant to this or any other applicable agreement; it being understood that under no circumstances shall Broadjam have any lesser rights than it would have as a member of the public. You are free to grant similar rights to others during and after the Term of this Agreement. If you believe that BDS Material in which you hold an ownership interest has been submitted to the BDS without your permission, you must, and hereby agree to notify Broadjam's designated [Copyright Agent](#), immediately.

[back to top](#)

» 4.04

If you provide a parental advisory warning about a particular sound recording in your BDS Material, Broadjam shall make such parental advisory information available to Buyers. You shall be solely responsible for determining the necessity for and content of parental advisory warnings.

[back to top](#)

» 4.05

Broadjam will make reasonable efforts to keep the BDS operational. However, certain technical difficulties, routine site maintenance, upgrades and any other events outside the control of Broadjam may, from time to time, result in temporary BDS interruptions. Broadjam also reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, functions of the BDS with or without notice. You agree that Broadjam shall not be liable to you or to any third party for any of the direct or indirect consequences of any modification, suspension, discontinuance of or interruption to the BDS.

[back to top](#)

» FEES; TECHNICAL REQUIREMENTS

» 5.01

The fee for uploading your BDS Material and making such Material available for sale at the BDS (the

"Ingestion Fee") shall be \$0 per song if you subscribe to Broadjam as a PRIMOMoB, subscriber. The Ingestion Fee shall be \$10 per song if you subscribe to any other level of Broadjam membership.

[back to top](#)

» 5.02

Audio files you upload to the BDS must be in the following format: mp3 at 44,100 khz and not lower than 192 kbps. Files not formatted accordingly will not be accepted into the BDS.

[back to top](#)

» 5.03

Uploading Material to the BDS is not secure. You upload your BDS Material entirely at your own risk, and with the express understanding that Broadjam does not employ technical protection measures.

Songs offered to Buyers through the BDS are not protected by Digital Rights Management (DRM) technologies. You understand that Buyers could violate provisions of Broadjam's Buyer Agreement and distribute your Materials without your permission. You make your BDS Material available for download entirely at your own risk, whether such Materials are sold or made available free of charge.

[back to top](#)

» 5.04

You agree that you have read and you accept Sections 1.10 and 1.11 of the [USA](#) which, along with each and every other provision of the USA, are fully incorporated herein. YOUR USE OF THE BDS IS ENTIRELY AT YOUR OWN RISK.

[back to top](#)

» PAYMENTS

» 6.01

The BDS will offer individual songs for sale to Buyers for \$.99 each. BROADJAM RESERVES THE RIGHT TO MODIFY PRICES IN THE BDS FROM TIME TO TIME, IN BROADJAM'S SOLE DISCRETION. Broadjam will notify you of any change in price. If you disagree with a price change, your sole remedy is to terminate this Agreement in accordance with Section 4.02.

The BDS will also offer songs to Buyers at no charge if you opt to make such songs available for free download in the BDS ("Free Songs"). None of your songs will be designated as Free Songs without your express consent. You may at any time choose to change the status of a song from "Free" to "Not Free" and vice versa in your User Profile.

[back to top](#)

» 6.02

Broadjam will pay every Primo MoB member ninety-nine cents (\$.99) for the first five hundred (500) Valid Sales of your BDS Material during the Term. After five hundred (500) Valid Sales, Broadjam will pay every Primo MoB member eighty-nine cents (\$.89) for every Valid Sale of your BDS Material during the Term.

All Primo MoB member Valid Sales prior to 12/13/2012 were paid eighty cents (\$.80) for every Valid Sale of your BDS Material during the Term, under the terms of the prior agreement.

Broadjam will pay all other members (membership types other than Primo MoB) eighty cents (\$.80) for every Valid Sale of your BDS Material during the Term.

"Valid Sale" means that we actually receive full and proper payment from the Buyer for the item being purchased.

You will not receive any payments from Buyer downloads of songs you have designated as Free Songs in the BDS. If you change the status of a song from "Free" to "Not Free" or vice versa, Broadjam shall not make any payments to you for songs downloaded by Broadjam members during

the time period in which you designated your songs as Free Songs.

[back to top](#)

» 6.03

In the event a Buyer reports to Broadjam that digital delivery of a validly purchased item of your BDS Material failed in whole or in part, you authorize Broadjam to deliver a "Replacement Download" of such BDS Material to such Buyer. Broadjam will not charge Buyers for Replacement Downloads, and accordingly will not owe or pay anything to you for Replacement Downloads.

[back to top](#)

» 6.04

If a Buyer purchases an item of BDS Material and is unable to download it for any reason, you authorize Broadjam in its sole discretion to provide the Buyer with one of the following remedies:

(a) Broadjam may refund the Buyer's payment for the purchased item, and deduct the amount refunded to the Buyer from any amounts due to you hereunder; or

(b) Broadjam may provide the Buyer with a comparable item of your BDS Material.

[back to top](#)

» 6.05

(a) You must request payment of amounts due and payable to you, in accordance with procedures specified by Broadjam. Broadjam will not remit payment automatically.

(b) Before any payment will be remitted to you, you must print out and submit either a completed W-9 form (US merchants) or a completed W-8 BEN form (non-US merchants) to Broadjam. Please either fax forms to 608-273-3635 or mail to: Broadjam Inc., 211 S. Paterson St. Ste. 360 Madison, WI 53703, Attn: Accounting. Incomplete forms will not be processed.

Instructions for filing a W-9 form can be found at: <http://www.irs.gov/pub/irs-pdf/iw9.pdf>.

The W-9 form can be found at: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

Instructions for filing a W-8 form can be found at: <http://www.irs.gov/pub/irs-pdf/iw8ben.pdf>.

The W-8 form can be found at: <http://www.irs.gov/pub/irs-pdf/fw8ben.pdf>.

(c) You may request payment once per calendar quarter but only at such times as the total amount owed to you equals or exceeds twenty United States dollars (\$20.00). Broadjam will remit payment amounts owed to you within thirty (30) days of the end of the calendar quarter in which you make the request.

(d) All checks issued by Broadjam are subject to the stale checks policy set forth in Section 4.06 of the USA.

(e) You must request payment for your BDS earnings within two (2) calendar years after such earnings have posted to your BDS Merchant account. Upon the expiration of such two (2)-year period, all such earnings shall be converted to Purchase Credits in accordance with Section 4.05 of the USA and Broadjam shall have no further obligation to remit cash or any other type of payment.

(f) The provisions of this Article VI shall constitute full consideration for all rights granted and obligations undertaken by you hereunder.

[back to top](#)

🌟 6.06

If this Agreement terminates, Broadjam will remit payment amounts owed to you that equal or exceed ten United States dollars (\$10.00) within thirty (30) days of the end of the calendar quarter in which this Agreement terminates. If the total amount owed to you is less than ten United States dollars (\$10.00) at the time of termination, your payment will be subject to a five (\$5.00) dollar processing fee and Broadjam will remit the balance to you, if any, within thirty (30) days of the end of the calendar quarter in which this Agreement terminates. This section 6.06 is not meant in any way

to limit any other provisions of this Article VI.

[back to top](#)

✦ 6.07

If you are acting on behalf of another Artist (as such term is defined in the USA), distributing payment to such Artist is your sole responsibility.

[back to top](#)

✦ MISCELLANEOUS

✦ 7.01

All notices required to be sent to Broadjam under this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, postage paid, or by overnight delivery service, to Broadjam Inc., 211 S. Paterson St. Ste. 360 Madison, WI 53703 Attention: Legal.

[back to top](#)

✦ 7.02

Your rights under this Agreement are not assignable and any attempt by your creditors to obtain an interest in your rights under this Agreement, whether by attachment, levy, garnishment or otherwise, renders this Agreement voidable at Broadjam's option.

[back to top](#)

✦ 7.03

This Agreement is binding on the Parties and their respective heirs, legatees, executors, successors and assigns. Except for Policies and other agreements incorporated by reference herein (including but not limited to the USA), this Agreement is the entire agreement between the Parties and

supersedes all prior written or oral agreements between the Parties relating to the subject matter hereof. If any portion of this Agreement is found to be void or unenforceable, the remaining portion shall be enforceable with the invalid portion removed, giving all reasonable construction to permit the essential purposes of the Agreement to be achieved. The Parties' various rights and remedies hereunder shall be construed to be cumulative.

[back to top](#)

» 7.04

This Agreement shall be deemed to have been made in the State of Wisconsin, and it shall be governed by the substantive laws of the State of Wisconsin without regard to any applicable conflict of laws provisions. The Parties submit to jurisdiction in the state and federal courts sitting in Dane County, Wisconsin, and you hereby waive any jurisdictional, venue or inconvenient forum objections.

[back to top](#)

» 7.05

Nothing contained in this Agreement shall be construed to require the commission of any act contrary to law. Nothing in this Agreement shall be construed or deemed to create any partnership, agency, joint venture, employment or franchise relationship between the Parties.

[back to top](#)

» 7.06

Each Party hereto agrees to execute all further and additional documents as may be necessary or desirable to effectuate and carry out the provisions of this Agreement.

[back to top](#)

» 7.07

Captions and headings used in this Agreement are for purposes of convenience only and shall not be deemed to limit, affect the scope, meaning or intent of this Agreement, nor shall they otherwise be given any legal effect.

[back to top](#)

👉 7.08

No breach of this Agreement by Broadjam shall be deemed material unless the Party alleging such breach shall have given Broadjam written notice of such breach, and Broadjam shall fail to cure such breach within thirty (30) days after its receipt of such notice.

[back to top](#)

👉 7.09

All duties, liabilities, obligations, warranties, representations, covenants, authorizations, agreements and restrictions undertaken by and/or imposed upon you in connection with this Agreement shall be deemed to apply jointly and severally to all members collectively and each member individually of any group at any time comprising the Artist (as that term is defined in the USA) whose recordings or other Materials you upload or otherwise make available to the BDS.

[back to top](#)

👉 7.10

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the BDS must be filed within one (1) year after such claim or cause of action arose or be forever barred.

[back to top](#)

ABOUT BROADJAM

[About Us](#)

[Advertise With Us](#)

[Work With Us](#)

[Contact Us](#)

LEGAL

[User Agreement](#)

[Buyer Agreement](#)

[Merchant Agreement](#)

[Privacy Policy](#)

[COPPA Notice](#)

FOLLOW US ON



PRESS/BLOGS

[Onliner Notes](#)

[Great People](#)

[Music Industry Views, News & Reviews](#)

[Discuss Music Licensing Opportunities](#)

[Broadjam Peer Song Reviews](#)

[Broadjam Pro Song Reviews](#)

OTHER LINKS

[Press Resources](#)

[Weblinks](#)

[broadjam.com](https://www.broadjam.com) © 2021
